

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
335 Merchant Street, Room 326
Honolulu, Hawaii 96813
Telephone: (808) 586-2800

PUBLIC UTILITIES
COMMISSION

2004 NOV - 1 P 3:42

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to Investigate)
Distributed Generation in Hawaii)

DOCKET NO. 03-0371

DIVISION OF CONSUMER ADVOCACY'S
REBUTTAL INFORMATION REQUESTS TO THE COUNTY OF MAUI
ON THEIR WRITTEN REBUTTAL TESTIMONIES AND EXHIBITS

Pursuant to the procedural schedule set forth in Prehearing Order No. 20922, the Consumer Advocate submits its **REBUTTAL INFORMATION REQUESTS TO THE COUNTY OF MAUI ON THEIR WRITTEN REBUTTAL TESTIMONIES AND EXHIBITS** in the above docketed matter. The Consumer Advocate does not have any Rebuttal Information Requests for Hawaiian Electric Company, Inc./Hawaii Electric Light Company, Inc./Maui Electric Company, Limited; Kauai Island Utility Cooperative; County of Kauai; and Hawaii Renewable Energy Alliance on their Rebuttal Testimonies and Exhibits. In addition, the Consumer Advocate did not receive Written Rebuttal Testimonies from Hess Microgen and Life of the Land, and thus does not have any Rebuttal Information Requests for these parties.

DATED: Honolulu, Hawaii, November 1, 2004.

Respectfully submitted,

By 
JOHN E. COLE
Executive Director

DIVISION OF CONSUMER ADVOCACY

DOCKET NO. 03-0371

PUBLIC UTILITIES COMMISSION

**CONSUMER ADVOCATE'S
REBUTTAL INFORMATION REQUESTS**

INSTRUCTIONS

In order to expedite and facilitate the Consumer Advocate's review and analysis in the above matter, the following is requested:

1. For each response, the Company should identify the person who is responsible for preparing the response as well as the witness who will be responsible for sponsoring the response should there be an evidentiary hearing;
2. Unless otherwise specifically requested, for applicable schedules or workpapers, the Company should provide hard copies of each schedule or workpaper together with one copy of each such schedule or workpaper on electronic media in a mutually agreeable format (e.g., Excel and Quattro Pro, to name two examples); and
3. When an information request makes reference to specific documentation used by the Company to support its response, it is not intended that the response be limited to just the specific document referenced in the request. The response should include any non-privileged memoranda, internal or external studies, assumptions, Company instructions, or any other relevant authoritative source which the Company used.
4. Should the Company claim that any information is not discoverable for any reason:
 - a. State all claimed privileges and objections to disclosure;

- b. State all facts and reasons supporting each claimed privilege and objection;
- c. State under what conditions the Company is willing to permit disclosure to the Consumer Advocate (e.g., protective agreement, review at business offices, etc.); and
- d. If the Company claims that a written document or electronic file is not discoverable, besides complying with subparagraphs 4(a-c), identify each document or electronic file, or portions thereof, that the Company claims are privileged or will not be disclosed, including the title or subject matter, the date, the author(s) and the addressee(s).

DOCKET NO. 03-0371

PUBLIC UTILITIES COMMISSION

CONSUMER ADVOCATE'S

SUBMISSION OF REBUTTAL INFORMATION REQUESTS

The following rebuttal information requests are directed to the County of Maui and are based on their Written Rebuttal Testimonies:

CA-RIR-1

Ref: COM RT-1, Page 1--Whether HECO should own customer-sited DG systems and primarily sell DG produced electricity to the customer hosting the DG installation.

The following questions relate to situations where HECO would own customer-sited DG systems and use the DG-produced electricity together with its other resources to serve the needs of all customers.

- a. Please state all reasons why HECO should not be allowed to own customer-sited generation facilities that are used to serve the needs of its customers and provide authoritative citations supporting the reasons cited.
- b. Should HECO be allowed to install generating facilities on land that it does not own? Explain.
- c. Should HECO be allowed to install generating facilities on land that it leases from owners that also receive electric service from HECO?
- d. If HECO installs generating facilities, why should HECO not be allowed to find means to improve or increase the overall efficiency of such generating resources?

Regarding the statement “disallowing investor-owned utilities from owning privately used systems,” please respond to the following.

- a. Please define “privately-used” generating facilities and give specific examples of such facilities. If possible, examples using actual installations in Hawaii would be preferred.
- b. Please give examples of generating facilities that would not be considered “privately-used” systems. Again, if possible, examples using actual installations in Hawaii would be preferred.
- c. Please define the differences between generating facilities that are considered “privately-used” and those that are not to be considered “privately-used.”
- d. What is the significance of a “privately-used” system as opposed to facilities that are not “privately-used?”
- e. State the specific factors that come to bear for the witness in reaching different conclusions and recommendations in this proceeding regarding private use facilities versus those that are not “privately-used”.
- f. If HECO’s generating facilities are not considered “privately used,” would the witnesses’ conclusions and recommendations be different?

1. If so, please state how and why.
2. If not, please state why.

CA-RIR-3

Ref: COM RT-1, Page 7.

Witness indicates that market power issues could arise if a regulated electric utility were allowed to compete against unregulated companies.

- a. In other parts of the country, are regulated electric utilities allowed to compete for any services that are provided by unregulated companies?
- b. If the answer to part a. is affirmative, please provide the witness' understanding of:
 1. the services that are provided by regulated electric utilities in other parts of the country in competition with unregulated companies;
 2. the market power issues in each such situation; and
 3. the manner that the market power issues were dealt with or resolved.
- c. In other parts of the country, are regulated electric utilities required to cease offering those services that could be offered by unregulated companies? If so, please identify the applicable companies and the appropriate authoritative reference.

Regarding the witness' referral to a Louisiana Public Service Commission Order, please respond to the following.

- a. In what ways is the referenced order similar to HECO's proposed CHP program?
- b. Does the witness believe that the Louisiana Public Service Commission Order would be similar to HECO's proposed CHP program if the electricity produced from the CHP system were used to supply, together with HECO's other resources, all of HECO's customers? Please explain your answer.
- c. If HECO leased a generating site from a land owner that also used electricity to serve the facilities built on that site, would the referenced Louisiana Public Service Commission Order be applicable? Explain your response.
- d. To what extent are the witness' responses to parts "a" through "c" of this information request dependent on the generating facility being utilized to provide the other non-electric services referenced in the witness' testimony?
- e. How would the answers to parts a through c of this information request change if the utility were providing only electricity producing services and not any of the other services referenced in the witness' testimony?

- f. In what manner are the circumstances for the Louisiana Order not similar to HECO's proposed CHP program? Explain.

CA-RIR-5

Ref: COM RT-1, Page 9.

The following requests pertain to witness' reference to a request by PNMES.

- a. In what ways is the referenced New Mexico Public Utility Commission Order similar to HECO's proposed CHP program? Explain.
- b. Does the witness contend that the New Mexico Public Utility Commission Order would be similar to HECO's proposed CHP program if the electricity produced from the CHP system were used to supply, together with HECO's other resources, all of HECO's customers? Please explain your answer.
- c. If HECO leased a generating site from a land owner that also used electricity to serve the facilities built on that site, would the referenced New Mexico Public Utility Commission Order be applicable? Explain.
- d. To what extent are the witness' responses to parts a through c of this information request dependent on the

generating facility being utilized to provide the other non-electric services referenced in the witness' testimony?

- e. How would the answers to parts a through c of this information request change if the utility were providing only electricity producing services and not any of the other services referenced in the witness' testimony?
- f. In what manner are the circumstances for the New Mexico Order not similar to HECO's proposed CHP program? Explain.

CA-RIR-6

Ref: COM RT-1, Pages 10 through 11.

The following information requests pertain to the witness' references to HECO's capabilities of owning, operating and maintaining DG systems.

- a. Please describe the witness' understanding of HECO's capabilities to own, operate and maintain DG systems and state the basis for such understanding.
- b. Please state all facts to support the conclusion that "HECO has not demonstrated competencies beyond their core capabilities, relative to the failures of HECO's affiliate companies, Hawaii Renewable Energy Systems, HEI Power Corp., and Pro Vision Technologies."

1. In evaluating the core competencies of HECO as it relates to the examples provided, please discuss the COM's understanding of whether these affiliated companies were operated as a regulated endeavor or using other resources. Please cite or provide supporting documentation as appropriate.
 2. In evaluating the core competencies of HECO as it relates to the examples provided, please discuss the COM's understanding of the overall nature of the markets entered and whether other participants thrived where HECO's affiliated companies failed. Please cite or provide supporting documentation as appropriate.
- c. Please describe how HECO should demonstrate the competencies that are, in the witness' opinion, necessary to operate and maintain DG facilities.
 - d. What specific information did the witness rely on to formulate his understanding as to how HECO should operate and maintain DG systems?
 - e. Please describe all factors that need to be recognized or present to determine whether an entity, such as HECO, is providing the DG services in an "incompetent or inefficient manner." For each factor or criterion that is identified,

please provide a discussion and citation to any relevant authoritative reference that supports the reasonableness of that criterion.

1. To the extent that COM is able to identify objective criteria to make a determination that an entity is providing DG services in an “incompetent or inefficient manner,” does COM believe that such criteria should be utilized in rules to identify parties that should be prohibited from providing DG services? Please explain.
 2. If the Commission does adopt criteria to mitigate the possibility of having incompetent or inefficient DG providers in Hawaii’s market and places adequate rules to level the playing field, please discuss whether COM would still oppose allowing all interested parties, which may include HECO, to offer services until it is later determined that incompetencies or inefficiencies are demonstrated.
- f. Please state all criteria that should be considered to determine that HECO has mismanaged the Company’s proposed CHP program, explain the basis for each criteria and cite all authoritative sources to support the consideration of each criteria.

CA-RIR-7

Ref: COM RT-1, Pages 12 through 14.

Please explain the witness' understanding of the specific items mentioned (i.e., lightning arrestor, 2000 AMPs breaker, reverse power relay, \$1,200/kW-year standby charge, cogeneration publication by a utility, tariff reduction of 11.77% for cogeneration customers) to Hawaii's utilities. Please provide specific examples of each of these items quoted in the testimony to identical situations offered by each of Hawaii's electric utilities.

CA-RIR-8

Ref: COM RT-1, Page 14.

The following requests pertain to the witness' statement that the withdrawal of Johnson Controls one week before responses by HECO to their information requests were due raised more questions about market power than has been answered.

- a. What are the questions regarding market power that the witness believes have been raised as a result of Johnson Controls' withdrawal?
- b. What is the significance of the timing reference in the witness' testimony to the claim that more market power issues were raised than answered?

Regarding the statement that there is an indication of ratepayer funded employees being used by the utility to compete against private energy companies, please respond to the following.

- a. Please clarify and explain whether the above referenced statement is directed solely to utility-owned customer-sited DG used to serve specific customers and is not in reference to utility generation used to serve all of the utility's customers.
- b. Please provide the basis for the conclusion that the electric utility's in Hawaii are currently using "ratepayer-funded employees" to "compete against private energy companies" as noted in the statement that "[t]his situation is beginning to manifest itself over competition for DG business with the COM."
- c. If the utility does not install generation to serve specific customers, does the witness believe that private companies in essence compete against the utility's avoidable tariff rates? Explain your response.

Regarding the discussion that the competitive marketplace could optimize the timing and size of customer DG and CHP systems, please respond to the following information requests.

- a. Please provide the witness' understanding of the competitive marketplace on the Mainland and differentiate that market to the market in Hawaii. State all factors considered to differentiate the two markets.
- b. Please indicate whether the witness believes that the competitive marketplace has optimized the timing and size of generating systems, and types of generating systems, on the Mainland. State all facts and resources relied upon to reach the conclusion presented in the response to this information request.
- c. Please describe the witness' understanding of a competitive marketplace determining the timing and size of generating additions versus a centralized planning approach. State all facts and sources relied upon to reach that understanding.
- d. Please discuss the witness' understanding of whether, in a competitive marketplace, there may be instances where individuals or individual companies may act in a manner that is most cost efficient or profitable for them, but may not be in the overall interest of the entire market.

- e. Does the witness believe that a competitive marketplace, where new generating resources would be allowed to charge what the market will bear, would represent the most reliable and lowest reasonable cost approach for resource additions to meet the electricity needs of Hawaii's customers? Explain.

CA-RIR-11

Ref: COM RT-1, Page 25.

The following information requests pertain to the witness' references to the emerging disruptive DG technologies that have the potential to make internal combustion engine CHP systems obsolete such as sterling engine, fuel cell and plastic photovoltaic systems.

- a. What time frame or frequency does the witness believe that emerging DG technologies could be evaluated so as to avoid consideration of disruptive DG technologies that have the potential to make systems obsolete? State all facts and sources considered to respond to this request.
- b. For each of the items mentioned by the witness that have the potential to make internal combustion engines CHP systems obsolete, please provide the witness' expectation as to when each of those emerging disruptive DG technologies have a potential to make internal combustion

engines CHP systems obsolete. State all facts and sources considered to respond to this request.

- c. With respect to the response to part "b". of this information request, please provide the timeframe in which each of the above systems will be utilized before other emerging disruptive DG technologies have the potential to make such systems obsolete. State all facts and sources considered to respond to this request.

CA-RIR-12

Ref: COM RT-1, Page 30.

The witness indicates there are other issues not addressed due to limitations on time and resources.

- a. Please identify the other issues that the witness has not addressed and provide a brief discussion of why it is an issue that needs to be discussed in the context of this docket. In your discussion, it would be very helpful if a prioritization of the other issues can be provided to facilitate determining whether additional time should be made available to address those issues.
- b. What does the witness believe is needed in the way of time and resources to address such other issues?
- c. Does the witness believe that the COM has sufficient time and resources to dedicate to the additional proceedings that

the witness recommends in his direct testimony for the Commission to initiate? Explain.

CA-RIR-13

Ref: COM RT-2, Page 2.

The following information requests pertain to the witness' statement that market power was determined to be the primary cause of the West Coast energy crisis of 2000-2001.

- a. Please provide the witness' understanding and identification of the participants that had market power that was determined to be the primary cause of the West Coast energy crisis.
- b. For each of the participants identified above, please provide the witness' understanding of whether such participant was an unregulated entity or a regulated entity using market-based rates or a regulated entity with Commission approved cost-based rates.
- c. For each of the participants identified in response to part "a". above, please provide the witness' understanding of whether the participant had passed the "HHI" test to participate in the West Coast market with market-based rates.
- d. Please indicate the witness' understanding of whether FERC is continuing to use HHI as a measure of market power? If

not, what is the witness' understanding of why FERC is not using such measure?

- e. In markets where the HHI has indicated that market power exists, please provide examples of the solutions used to mitigate the possibility of a market participant or group of participants exerting undue influence on the market.
- f. Assuming that one of the examples identified by the COM's witness with respect to the response to part e. above is preventing a participant or participants from participating in a particular market, please address the following:
 - 1. Please discuss the witness' belief as it relates to whether preventing a participant or participants from a market may allow less efficient or competent players in the market to serve customers at a higher cost.
 - 2. Please discuss the witness' belief whether disallowing certain participants will have no impact on possibly stifling innovation or other market developments that might occur under less restrictive circumstances.

CA-RIR-14

Ref: COM RT-2, Page 8.

The witness indicates that the utility will avoid the need to invest in new generation, transmission and distribution facilities and that

these avoided costs should be netted out from the "lost margin" calculation.

- a. What is the witness' understanding as to the timing difference between the lost margin revenue and the cost avoided by the utility to invest in new generation, transmission and distribution?
- b. What is the witness' expectation as to the level of customer-sited DG that could be installed for each of the utilities that will avoid the need to invest in new generation, transmission and distribution facilities and whether such amounts of customer-sited DG are achievable? Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.
- c. What level of customer-sited DG could need to be installed before the witness believes that customer-sited DG would have a negative revenue impact on the utility system? Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.
- d. Please confirm that the COM is not asserting that avoided costs are included with embedded costs in determining revenue requirements.

1. Based on the above understanding, please confirm the assumption that the COM is agreeing that rates should be unbundled to allow the Commission to properly set rates for such services as standby services to offset the lost retail revenues.
2. Assuming that not all customers choose to invest and implement DG facilities, please discuss whether it is reasonable to expect that the utility companies will still need to replace generation, transmission and distribution facilities as currently designed to meet existing, as well as possible future demands, (e.g., standby service)

CA-RIR-15

Ref: COM RT-2, Page 9.

The witness indicates the avoided capacity costs from not serving the customer greatly exceed the contribution to fixed costs the customer would pay if they were served by the utility.

- a. Does the witness believe that the utility is better off by not serving customers? Explain.
- b. To what level should the utility not be serving customers in the future? Explain.

The witness indicates that MECO's current rates are based on embedded costs, but that only marginal costs are relevant when looking forward and for implementation of DG.

- a. Does the witness believe that MECO's current rates should not be based on embedded costs, but should be based on marginal costs to send the price signals discussed elsewhere the witness' testimony? Explain.
- b. Does the witness believe that there are some components of MECO's current rates that should be based on marginal costs rather than embedded costs? Explain.
- c. Does the witness believe that a mismatch occurs when a utility charges customers for the services it provides at embedded costs, but unbundles rates so that DG customers are in essence credited marginal costs for the avoided services? Please explain.
- d. Does the witness believe a customer receiving a credit for the entire DG output at marginal cost based rates and having its entire load billed at the utility's embedded cost based rates accomplishes the same objectives proposed by the witness? Please explain.

CA-RIR-17

Ref: COM RT-2, Page 15.

The witness references three mainland States where excess electric capacity situations exist and references the transportation service in the natural gas industry on the mainland in the rebuttal testimony.

- a. Is it the witness' belief that excess capacity situations have occurred for each of the utilities serving customers in the state of Hawaii? If yes, please provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.
- b. For each of the situations identified in response to part "a" of this information request, please describe the timeframe and the duration over which the utility have excess capacity. Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.
- c. Please describe the witness' understanding of the ability of Hawaii's gas customers to obtain transportation service on the islands.

CA-RIR-18

Ref: COM RT-2, Page 18.

The witness' testimony states that each DG customer should contribute a portion of the cost of owning and maintaining the

capacity that provides service to all DG customers in proportion to how much and how often individual customers use that standby capacity.

- a. Should the standby rates to DG customers be based on embedded costs?
 1. If yes, please explain how such costs should be determined.
 2. If no, please explain why not, and describe how such costs should be determined.
- b. Does the witness believe that the average and excess cost allocation methodology takes into account how much and how often customers use capacity? Explain.
- c. Does the witness believe capacity costs should be based on other allocation methodology? Explain.

CA-RIR-19

Ref: COM RT-2, Page 28.

The witness indicates that in the past when fuel costs were lower, the utility may not have had the time differentiated costs that it does at current prices.

- a. Please identify the fuel costs in the past (i.e., \$/barrel) referenced and the timeframe referenced in the testimony.
- b. In the timeframe referenced in the past, please identify what the Hawaii utilities' on-peak and off-peak costs were at that

time and the Hawaii Island utilities' on-peak and off-peak costs currently.

- c. Provide the definition of on-peak and off-peak hours used in responding to part "b" of this information request.
- d. What is the witness' understanding as to the load profile of the Hawaii utilities in the "distant past" to the current period? Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.

CA-RIR-20

Ref: COM RT-2, Page 29.

The witness indicates that with a time of use rate customers will have an incentive to do maintenance on DG during nighttime hours spread over a longer period of time.

- a. Please describe the DG maintenance, which the witness suggests could be performed at night and state the number of days that it would take to perform such maintenance. Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.
- b. What are the quantified costs and benefits of performing this maintenance during nighttime hours? Provide the specific

facts considered in responding to this information request and state the basis for the conclusions reached.

- c. What is the on-peak period and off-peak period that the witness believes should be used to define each of the Hawaii Island utilities? Provide the specific facts considered in responding to this information request and state the basis for the conclusions reached.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S REBUTTAL INFORMATION REQUESTS TO THE COUNTY OF MAUI ON THEIR WRITTEN REBUTTAL TESTIMONIES AND EXHIBITS** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

THOMAS W. WILLIAMS, JR. ESQ. PETER Y. KIKUTA, ESQ. Goodsill, Anderson, Quinn & Stifel Alii Place, Suite 1800 1099 Alakea Street Honolulu, Hawaii 96813	1 copy
---	--------

WILLIAM A. BONNET Vice President Hawaiian Electric Company, Inc. Hawaii Electric Light Company, Inc. Maui Electric Company, Limited P. O. Box 2750 Honolulu, Hawaii 96840-0001	1 copy
--	--------

PATSY H. NANBU Hawaiian Electric Company, Inc. P. O. Box 2750 Honolulu, Hawaii 96840-0001	1 copy
--	--------

ALAN M. OSHIMA, ESQ. KENT D. MORIHARA, ESQ. 841 Bishop Street, Suite 400 Honolulu, Hawaii 96813	2 copies
--	----------

ALTON MIYAMOTO President & CEO Kauai Island Utility Cooperative 4463 Pahe'e Street Lihue, Hawaii 96766	1 copy
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BRIAN T. MOTO, CORPORATION COUNSEL County of Maui Department of the Corporation Counsel 200 S. High Street Wailuku, HI 96793	1 copy
CINDY Y. YOUNG, DEPUTY CORPORATION COUNSEL County of Maui Department of the Corporation Counsel 200 S. High Street Wailuku, HI 96793	1 copy
KALVIN K. KOBAYASHI, ENERGY COORDINATOR County of Maui Department of Management 200 S. High Street Wailuku, HI 96793	1 copy
WARREN S. BOLLMEIER II, PRESIDENT Hawaii Renewable Energy Alliance 46-040 Konane Place, #3816 Kaneohe, Hawaii 96744	1 copy
JOHN CROUCH Box 38-4276 Waikoloa, HI 96738	1 copy
RICK REED Inter Island Solar Supply 761 Ahua Street Honolulu, HI 96819	1 copy
HENRY CURTIS Life of the Land 76 North King Street, Suite 203 Honolulu, HI 96817	3 copies
SANDRA –ANN Y. H. WONG, ESQ. 1050 Bishop Street, #514 Honolulu, Hawaii 96813	1 copy
CHRISTOPHER S. COLMAN Deputy General Counsel Amerada Hess Corporation One Hess Plaza Woodbridge, N.J. 07095	1 copy

MICHAEL DE'MARSI
Hess Microgen
4101 Halburton Road
Raleigh, NC 27614

1 copy

LANI D. H. NAKAZAWA, ESQ.
Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, HI 96766

2 copies

GLENN SATO, ENERGY COORDINATOR
c/o Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihue, HI 96766

1 copy

DATED: Honolulu, Hawaii, November 1, 2004.

Ann Jonokawa